

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES PICARELLA, JR.,	:	CIVIL NO. 1:16-CV-501
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
KRISTA BROUSE, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 2nd day of March, 2017, upon consideration of defendants' motion (Doc. 24) to dismiss, and in accordance with the court's memorandum of the same date, it is hereby ORDERED that:

1. The motion (Doc. 24) to dismiss is GRANTED in part and DENIED in part as follows:
 - a. The motion is GRANTED with respect to the Fifth Amendment due process claim, and Fourteenth Amendment due process and equal protection claims. These claims against all defendants are DISMISSED in their entirety.
 - b. The motion is GRANTED as to any claim for damages under the Pennsylvania Constitution. This claim is DISMISSED in its entirety.
 - c. The motion is GRANTED with respect to the Eighth Amendment conditions of confinement claim and Monell claim.
 - d. The motion is DENIED with respect to the First Amendment and conversion claims against defendant Brouse.
 - e. The motion is DENIED without prejudice as to the qualified immunity defense.

2. Plaintiff is granted twenty (20) days from the date of this order to file a proposed second amended complaint to cure the deficiencies with respect to the Eighth Amendment conditions of confinement claim and Monell claim. Failure to timely file a proposed second amended complaint will result in the dismissal of this action without further notice of court.
3. Should defendants file a motion to dismiss any second amended complaint, plaintiff must file a brief in opposition to such motion within fourteen (14) days after service of defendants' brief. See M.D. Pa. Local Rule 7.6.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania